

EXHIBIT 11
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HB 332

From: Roger Koopman (koopman@imt.net)
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Cc:
Subject: HB 332 information

MONTANA CONSERVATIVE ALLIANCE

freedom matters

P.O. Box 11803, Bozeman, MT 59719

Dear Representative

The members and directors of Montana Conservative Alliance urge you to favorably report HB 332, a bill establishing the courtroom practice in criminal cases, of fully informing jurors of their duties, responsibilities and constitutional authority. We believe this may be the most important measure to come before House Judiciary in this session.

I was unable to attend last week's hearing, but listened afterwards to opponents' testimony. Messrs. Sullivan and Murphy, while honorable men, misinformed the committee on several counts. I will very briefly address two important misstatements of fact (paraphrased):

1. "The job the jury is given is solely to judge the facts, not the law."

If you interviewed every delegate to the 1787 Constitutional Convention as they left Independence Hall, you would not find one in agreement with that statement. The Founders did not view jurors as "robots" weighing the evidence only, but as discerning, moral human beings, jealous of their liberties and the liberties of their fellow citizens – fully empowered to put considerations of true justice above of the blind application of civil law. This was perhaps the strongest statement the Founders could make on the sovereignty of the people over their government, and was a critically important principle of American jurisprudence. John Jay, first Chief Justice of the US Supreme Court said it plainly:

"The Jury has the right to judge both the law and the fact in controversy."

2. "Fully informed juries are a direct assault on the rule of law."

Just the opposite is true. In a free society, rule of law is founded on respect for law – not fear of law. Citizen respect for law is fostered by the knowledge that citizen jurors have the final say in any criminal proceeding brought by the state. The common man – not the professionals and "practitioners of the law" – hold a veto power over bad law or law badly or brutally applied. Examples of this abound throughout American history, and have made our system of justice all the stronger. And while juries obviously cannot repeal statute, properly informed juries play a crucial role in our democratic process, by providing on-the-ground testing of the laws we pass, and when necessary, signaling to the legislative and executive branches that change is needed, through the will of the people.

The fallacy of the opponents' "rule of law" argument can be illustrated by a simple example. Suppose Congress passes – in violation of the US Constitution – a nationwide prohibition on handgun ownership by private citizens (similar to Canada's.) A Montana resident and handgun owner is brought up on charges in federal court, for violation of this statute. A Montana jury of his peers, following the lockstep "judge the facts only" position of HB 332's opponents, would

determine:

Yes, the Defendant owns a handgun

Yes, the Defendant is in violation of federal law

Yes, the Defendant is guilty of a federal crime

A fully informed Montana jury would determine:

Yes, the Defendant owns a handgun

Yes, the Defendant is in violation of federal law

No, the Defendant has committed no crime

Which of these two juries administered justice? Which of these juries defended the rule of law -- natural law and constitutional law? As a free citizen, which jury would you want to stand before? Blind submission to tyranny is not rule of law. It is the erosion and destruction of law, which can lead only to oppression, anarchy and chaos.

The above example may not be as far-fetched as you think. We pray that America never comes to this, and that informed juries, refusing to convict, would remain a seldom-used power and a rare occurrence. But that is the point, isn't it? Juries, accurately informed of their moral, ethical and constitutional responsibilities, will forever remain an impenetrable fortress in defense of our liberties and the rights of the common man.

Please support HB 332. Thank you for your time and kind attention.

Respectfully,

**Roger Koopman
President, MCA**

P.S. -- For additional background on this important issue, please consider reading the attached article that I had written for a national publication some years ago. It's a "quick read," but is quite informative. Thank you.

"The great and direct end of government is liberty" -- Patrick Henry